

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1061 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 8-1.5-5-29, AS ADDED BY P.L.131-2005,
- 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 UPON PASSAGE]: Sec. 29. (a) Subsections (c) (~~d~~), and (e) do not
- 6 apply to a city that before January 1, 2005, adopted an ordinance
- 7 establishing procedures for the collection of unpaid user fees under this
- 8 chapter through the enforcement of a lien.
- 9 (b) Fees assessed against real property under this chapter constitute
- 10 a lien against the property assessed. The lien is superior to all other
- 11 liens except tax liens. Except as provided in subsections (c) and (d), the
- 12 lien attaches when notice of the lien is filed in the county recorder's
- 13 office under section 30 of this chapter.
- 14 (c) A fee is not enforceable as a lien against a subsequent owner of
- 15 property unless the lien for the fee was recorded with the county
- 16 recorder before the conveyance to the subsequent owner. If property is
- 17 conveyed before a lien is filed, the department shall notify the person
- 18 who owned the property at the time the fee became payable. The notice
- 19 must inform the person that payment, including penalty fees for
- 20 delinquencies, is due not more than fifteen (15) days after the date of
- 21 the notice. If payment is not received within one hundred eighty (180)
- 22 days after the date of the notice, the amount due may be expensed as a
- 23 bad debt loss."
- 24 (d) A lien ~~attaches~~ **does not attach** against real property occupied

1 by someone other than the owner. ~~only if the department notifies the~~
 2 ~~owner within twenty (20) days after the time the user fees became sixty~~
 3 ~~(60) days delinquent. However, the department must give notice to the~~
 4 ~~owner only if the owner has given the department written notice of the~~
 5 ~~address to which to send notice.~~

6 (e) The department shall release:

7 (1) liens filed with the county recorder after the recorded date of
 8 conveyance of the property; and

9 (2) delinquent fees incurred by the seller;

10 upon receipt of a verified demand in writing from the purchaser. The
 11 demand must state that the delinquent fees were not incurred by the
 12 purchaser as a user, lessee, or previous owner and that the purchaser
 13 has not been paid by the seller for the delinquent fees.".

14 Page 2, after line 36, begin a new paragraph and insert:

15 "SECTION 6. IC 36-9-23-32, AS AMENDED BY P.L.131-2005,
 16 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 UPON PASSAGE]: Sec. 32. (a) **Except as otherwise provided in this**
 18 **chapter**, fees assessed against real property under this chapter or under
 19 any statute repealed by IC 19-2-5-30 constitute a lien against the
 20 property assessed. The lien is superior to all other liens except tax liens.
 21 Except as provided in ~~subsections~~ **subsection (b) and (c)**; the lien
 22 attaches when notice of the lien is filed in the county recorder's office
 23 under section 33 of this chapter.

24 (b) A fee is not enforceable as a lien against a subsequent owner of
 25 property unless the lien for the fee was recorded with the county
 26 recorder before the conveyance to the subsequent owner. If the property
 27 is conveyed before the lien can be filed, the municipality shall notify
 28 the person who owned the property at the time the fee became payable.
 29 The notice must inform the person that payment, including penalty fees
 30 for delinquencies, is due not more than fifteen (15) days after the date
 31 of the notice. If payment is not received within one hundred eighty
 32 (180) days after the date of the notice, the amount due may be
 33 expensed as a bad debt loss.

34 (c) A lien ~~attaches~~ **does not attach** against real property occupied
 35 by someone other than the owner. ~~only if the utility notified the owner~~
 36 ~~within twenty (20) days after the time the utility fees became sixty (60)~~
 37 ~~days delinquent. However, the utility is required to give notice to the~~
 38 ~~owner only if the owner has given the general office of the utility~~
 39 ~~written notice of the address to which the owner's notice is to be sent.~~

40 (d) The municipality shall release:

41 (1) liens filed with the county recorder after the recorded date of
 42 conveyance of the property; and

43 (2) delinquent fees incurred by the seller;

44 upon receipt of a verified demand in writing from the purchaser. The
 45 demand must state that the delinquent fees were not incurred by the
 46 purchaser as a user, lessee, or previous owner, and that the purchaser

1 has not been paid by the seller for the delinquent fees.
2 SECTION 7. [EFFECTIVE UPON PASSAGE] **IC 8-1.5-5-29 and**
3 **IC 36-9-23-32, both as amended by this act, apply only to fees and**
4 **penalties incurred by an occupant of real property after the**
5 **effective date of this SECTION. A reference in any law to the**
6 **collection or enforcement of rates, fees, charges, or penalties in the**
7 **manner provided by IC 36-9-23 or IC 36-9-23-32 shall be treated**
8 **as not imposing a lien for the collection or enforcement of rates,**
9 **fees, charges, or penalties in cases described in IC 36-9-23-32(c).**
10 SECTION 8. **An emergency is declared for this act."**
11 Renumber all SECTIONS consecutively.
(Reference is to HB 1061 as printed January 23, 2008.)

Representative Koch